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45 days late. In addition, the Department notifies the State that the plan is not substantially approvable and the time from that notification until the State submits changes that make the plan substantially approvable is an additional 10 days. By adding 55 days to July 1, we reach August 24. However, since the Department notified the State that the plan was substantially approvable on July 25, that is the date that the State may begin to obligate funds.)

Example 6. Paragraph (e)(2)(ii)(B): A State submits a plan on May 15, and the Department notifies the State that the plan is not substantially approvable on August 1. The State submits changes that make the plan substantially approvable on August 20, and the Department notifies the State that the plan is substantially approvable on September 5. The State may choose to begin drawing funds from the Department on September 2, and obligations made on or after that date would generally be allowable. (In this example, the original submission is 45 days late. In addition, the Department notifies the State that the plan is not substantially approvable and the time from that notification until the State submits changes that make the plan substantially approvable is an additional 19 days. By adding 64 days to July 1, we reach September 2, which is earlier than September 5, the date that the Department notifies the State that the plan is substantially approvable.)

Example 7. Paragraph (g): A State submits a plan on April 15 and the Department notifies the State that the plan is not substantially approvable on July 16. The State makes changes to the plan and submits a substantially approvable plan on July 30. The Department had until July 15 to decide whether the plan was substantially approvable because the State was 15 days late in submitting the plan. The date the State may begin to obligate funds under the regulatory deferral is July 29 (based on the 15 day deferral for late submission plus a 14 day deferral for the time it took to submit a substantially approvable plan after having received notice). However, because the Department was one day late in completing its review of the plan, the State would get pre-award costs to cover the period of July 1 through July 29.

(h) After determining that a State plan is in substantially approvable form, the Secretary informs the State of the date on which it could begin to obligate funds. Reimbursement for

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those obligations is subject to final approval of the State plan.

(Authority: 20 U.S.C. 1221e-3, 3474, 6511(a) and 31 U.S.C. 6503)

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 60 FR 41294, Aug. 11, 1995; 61 FR 14484, Apr. 2, 1996]

§ 76.704 New State plan requirements that must be addressed in a State plan.

(a) This section specifies the State plan requirements that must be addressed in a State plan if the State plan requirements established in statutes or regulations change on a date close to the date that State plans are due for submission to the Department.

(b)(1) A State plan must meet the following requirements:

(i) Every State plan requirement in effect three months before the date the State plan is due to be submitted to the Department under 34 CFR 76.703; and

(ii) Every State plan requirement included in statutes or regulations that will be effective on or before the date that funds become available for obligation by the Secretary and that have been signed into law or published in the FEDERAL REGISTER as final regulations three months before the date the State plan is due to be submitted to the Department under 34 CFR 76.703.

(2) If a State plan does not have to meet a new State plan requirement under paragraph (b)(1) of this section, the Secretary takes one of the following actions:

(i) Require the State to submit assurances and appropriate documentation to show that the new requirements are being followed under the program.

(ii) Extend the date for submission of State plans and approve pre-award costs as necessary to hold the State harmless.

(3) If the Secretary requires a State to submit assurances under paragraph (b)(2) of this section, the State shall incorporate changes to the State plan as soon as possible to comply with the

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new requirements. The State shall submit the necessary changes before the start of the next obligation period.

(Authority: 20 U.S.C. 1221e-3, 3474, 6511(a) and 31 U.S.C. 6503)

[60 FR 41296, Aug. 11, 1995]

§ 76.707 When obligations are made.

The following table shows when a State or a subgrantee makes obligations for various kinds of property and services.

If the obligation is for—	The obligation is made—
(a) Acquisition of real or personal property.	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the State or subgrantee.	When the services are performed.
(c) Personal services by a contractor who is not an employee of the State or subgrantee.	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services.	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
(e) Public utility services	When the State or subgrantee receives the services.
(f) Travel	When the travel is taken.
(g) Rental of real or personal property.	When the State or subgrantee uses the property.
(h) A preagreement cost that was properly approved by the State under the cost principals identified in 34 CFR 74.171 and 80.22..	

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 55 FR 14817, Apr. 18, 1990; 57 FR 30342, July 8, 1992]

§ 76.708 When certain subgrantees may begin to obligate funds.

(a) If the authorizing statute for a program requires a State to make subgrants on the basis of a formula (see § 76.5), the State may not authorize an applicant for a subgrant to obligate funds until the later of the following two dates:

(1) The date that the State may begin to obligate funds under § 76.703; or

(2) The date that the applicant submits its application to the State in substantially approvable form.

(b) Reimbursement for obligations under paragraph (a) of this section is subject to final approval of the application.

(c) If the authorizing statute for a program gives the State discretion to select subgrantees, the State may not authorize an applicant for a subgrant to obligate funds until the subgrant is made. However, the State may approve pre-agreement costs in accordance with the cost principles that are appended to 34 CFR part 74 (Appendices C-F).

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980. Further redesignated at 60 FR 41295, Aug. 11, 1995]

§ 76.709 Funds may be obligated during a “carryover period.”

(a) If a State or a subgrantee does not obligate all of its grant or subgrant funds by the end of the fiscal year for which Congress appropriated the funds, it may obligate the remaining funds during a carryover period of one additional fiscal year.

(b) The State shall return to the Federal Government any carryover funds not obligated by the end of the carryover period by the State and its subgrantees.

NOTE: This section is based on a provision in the General Education Provisions Act (GEPA). Section 427 of the Department of Education Organization Act (DEOA), 20 U.S.C. 3487, provides that except to the extent inconsistent with the DEOA, the GEPA “shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.” Although standardized nomenclature is used in this section to reflect the creation of the Department of Education, there is no intent to extend the coverage of the GEPA beyond that authorized under section 427 or other applicable law.

(Authority: U.S.C. 1221e-3, 1225(b), and 3474)

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86296, Dec. 30, 1980. Redesignated at 60 FR 41295, Aug. 11, 1995]

§ 76.710 Obligations made during a carryover period are subject to current statutes, regulations, and applications.

A State and a subgrantee shall use carryover funds in accordance with: